

*Arizona Supreme Court  
Judicial Ethics Advisory Committee*

ADVISORY OPINION 78-02  
(July 21, 1978)

**Contributions to an Organization Advocating  
a Judicial Salary Increase**

**Issue**

Is a contribution by a judge to an organization advocating a salary increase for judges a political contribution subject to the limitation of Canon 7A(1)(c), of the Code of Judicial Conduct?

**Answer:** Yes.

**Facts**

The judge requesting this opinion furnished the following facts for the committee's consideration: assume that an organization is created for the express and sole purpose of advocating the approval by the voters of a legislative salary recommendation certified to the Secretary of State by the Commission on Salaries for Elective State Officers. The organization is non-partisan in nature and is not affiliated with any organized or formal political party or organization.

**Discussion**

Canon 7 of the Arizona Code of Judicial Conduct, provides as follows:

A judge should refrain from political activity inappropriate to his judicial office.

A judge is entitled to entertain his personal views on political questions. He is not required to surrender his rights or opinions as a citizen. He should avoid political activity which may give rise to a suspicion of political bias or impropriety. The term "political activity" should not be construed so narrowly as to prevent private comment.

A judge may purchase tickets for political dinners or other similar functions. Although attendance at political gatherings is not prohibited, any such attendance should be restricted in such a manner as not to constitute a public endorsement of a cause or candidate otherwise prohibited by these canons.

Canon 7A(1)(c) further provides that "[a] judge or candidate for election to judicial office should not solicit funds for or pay an assessment to a political organization or candidate; make contributions to a political party or organization or to a non-judicial candidate in excess of a total of One Hundred Fifty Dollars per year." **[Note: The Supreme Court increased the limit to \$250 in the 1985 version of the Code of Judicial Conduct.]**

## Advisory Opinion 78-02

In addition, Canon 4 of the Code, which begins with "a judge may engage in activities to improve the law, the legal system, and the administration of justice," provides that:

A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him:

A. He may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

...

C. He may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. He may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. He may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Whether the activities of the organization described in the question are civic or political in nature is at the heart of the question. If the activities are civic or charitable in nature or seek to improve the law, the legal system or the administration of justice without political overtones, then it would appear that there would be no ethical impropriety if a judge makes a contribution in any reasonable amount as long as it would not create the appearance of impropriety, detract from the judicial office and its requirement of impartiality or otherwise violate any of the canons. However, if the organization is political in nature or is advocating political causes, then the limitation of Canon 7 would appear to apply.

It seems clear that the organization described in the question is not a political party within the meaning of Canon 7; however, the term "political organization" is a broader term which could encompass the activities described in this inquiry.

In *Empire City Job Print, Inc., v. Harbord*, 148 Misc. 231, 265 N.Y.S. 450 (1933), *aff'd*, 244 App. Div. 6, 277 N.Y.S. 795 (1935), the trial court held that a political committee exists whenever three or more persons cooperate to bring about the election or defeat of a candidate or proposition at an election.

In *Heidtman v. City of Shaker Heights*, 99 Ohio App. 415, 119 N.E.2d 644 (1954), *aff'd*, 163 Ohio St. 109, 126 N.E.2d 138 (1955), the Court of Appeals of Ohio, construing a statute to permit firemen to seek funds for a political organization non-partisan in nature, stated that generally a political organization in its usual and ordinary sense means one connected with and serving the purpose of a political party, yet it may be one to further a political cause not partisan in nature, such as a charter amendment, bond issue, special tax levy, etc.

## Advisory Opinion 78-02

Furthermore, it has been held that, where facts and circumstances indicate that a primary or one of the primary purposes of a person making contributions is to affect, directly or indirectly, governmental, decision-making by supporting or opposing a specific candidate or ballot proposition, the contributing person becomes a statutory "political committee" and is subject to the disclosure requirements of Washington's Campaign Financial Disclosure Act. *State v. Dan J. Evans Campaign Committee*, 86 Wash. 2d 503, 546 P.2d 75 (1976).

The committee concludes that a fair construction of the term "political organization" as used in Canon 7A(1)(c), Code of Judicial Conduct, would include conduct by an organization whose express and sole purpose is to advocate the approval by the voting public of a ballot proposition seeking to increase legislative salaries. The amount of any contribution by a judge therefore is within the \$100 per year limitation of Canon 7A(1)(c).

**[Note: The Supreme Court increased the political contribution limit to \$250 in the 1985 version of the Code of Judicial Conduct.]**

### Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 4 and 7A(1)(c) (1975).

### Other References

*Empire City Job Print, Inc., v. Harbord*, 148 Misc. 231, 265 N.Y.S. 450 (1933), *aff'd*, 244 App. Div. 6, 277 N.Y.S. 795 (1935).

*Heidtman v. City of Shaker Heights*, 99 Ohio App. 415, 119 N.E.2d 644 (1954), *aff'd*, 163 Ohio St. 109, 126 N.E.2d 138 (1955)

*State v. Dan J. Evans Campaign Committee*, 86 Wash. 2d 503, 546 P. 2d 75 (1976).